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15 AAC 50.010 – 15 AAC 50.190 CIGARETTE TAX

Article

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Article 1
Licensing

Section

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15 AAC 50.010. Application for license

(a) A person engaged in a cigarette business in the state shall file an application for a license on a form provided by the department, pay the license fee as required under 15 AAC 50.030, and, in the case of a distributor, file a surety bond as required under 15 AAC 50.040.

(b) The application must include the following information:

- (1) the applicant's name and address;
- (2) the name under which the cigarette business will be conducted;

(3) the applicant's cigarette business category as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer;

(4) in the case of vending machine operator, the number of vending machines which will be operated; and

(5) other information required on the department's application form.

(c) A person engaged in more than one cigarette business shall file a separate application for each category of cigarette business. A person conducting a cigarette business shall file a separate application for each place of business. A vending machine operator who operates a cigarette business from one place of business but who has cigarette vending machines in more than one location on the premises of others is required to file only one application.

(d) Licenses expire at the end of the license year and must be renewed by filing an application under this section no later than June 30 of the current license year. A person who moves a place of business to a new location must first file an application to transfer the license to the new place of business and pay the fee specified under 15 AAC 50.030(b) . A person whose license is lost, stolen, or defaced, shall immediately file an application for a duplicate license and pay the fee specified under 15 AAC 50.030(c) .

(e) The license required under this chapter is in addition to all other licenses required by law.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.010

AS 43.50.020

AS 43.50.035

AS 43.50.040

AS 43.50.150

15 AAC 50.020. Display and surrender of license

(a) A license must be prominently displayed at the licensee's place of business. A vending machine operator shall also display a stamp provided by the department on each vending machine operated by the licensee.

(b) A licensee shall surrender a license within 30 days after

(1) a revocation of a license;

- (2) a cessation of a cigarette business;
- (3) a change of ownership of a cigarette business; or
- (4) a change of a place of business.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.010

AS 43.50.020

AS 43.50.040

AS 43.50.150

15 AAC 50.030. License fees

(a) The license fee for each initial license and renewal is:

- (1) \$50 for a distributor license;
- (2) \$25 for a vending machine operator license;
- (3) \$25 for a direct-buying retailer license; and
- (4) \$25 for a buyer license.

(b) The license fee for a transfer of a license to a new place of business is 50 cents.

(c) The license fee for a duplicate of a license which has been lost, stolen, or defaced is 50 cents.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.030

AS 43.50.040

AS 43.50.060

AS 43.50.150

15 AAC 50.040. Distributor bond

An application for a distributor license must be accompanied by a surety bond on a form provided by the department which has been approved by the Department of Law. The surety on the bond must be licensed by the State of Alaska to write surety bonds in the state. The amount of the surety bond must be in an amount equal to twice the estimated average monthly amount of tax due during the license year for which the application is being filed, or \$5,000, whichever is higher.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.035

AS 43.50.150

15 AAC 50.050. License transfer

(a) Except as provided in (b) of this section, no person may transfer or assign a license issued under this chapter to another person.

(b) In the event of death, bankruptcy, receivership, or incompetency of the licensee, or if the business of the licensee is transferred to another person by operation of law, the department may in its discretion, upon notice, allow the license to be operated by the administrator, receiver, guardian, or transferee of the licensee for the remainder of the license year.

(c) Upon application and payment of the fee provided for in 15 AAC 50.030(b) , a license will be transferred to a new place of business for the remainder of the license year.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.040

AS 43.50.050

AS 43.50.150

15 AAC 50.060. License refunds

Upon application, the department will refund a license fee that is paid or collected in error. The department will not refund a portion of the license fee where the license has been surrendered or revoked after the beginning of the license year.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.060

AS 43.50.150

15 AAC 50.070. License revocation and suspension

The department will commence a suspension or revocation of a license, for the reasons set out in AS 43.50.070 , by filing an accusation as provided in AS 44.62. The remainder of the procedure for the suspension or revocation of a license will be in accordance with AS 44.62.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.070

AS 43.50.150

**Article 2
Taxation**

Section

90. Cigarette tax.

100. Exemptions for military and Indian reservation sales.

110. Tax credits and refunds.

120. Returns.

130 - 140. (Reserved).

15 AAC 50.090. Cigarette tax

(a) A person who, during the preceding month, first manufactures, imports, or acquires cigarettes in this state, or who during the preceding month acquires cigarettes upon which the tax has not been paid, shall pay a tax equal to four mills on each cigarette manufactured, imported, or acquired in the state before October 1, 1985, and shall pay a tax equal to eight mills on each

cigarette manufactured, imported, or acquired in the state after September 30, 1985, that is not exempt under this chapter, less the one-percent commission deduction allowed in AS 43.50.090 .

(b) The tax must be paid before the end of the month following the month in which the cigarettes are manufactured, imported, or acquired in the state and must accompany the return filed according to 15 AAC 50.120.

History: Eff. 2/27/83, Register 85; am 3/28/86, Register 97

Authority: AS 43.05.080

AS 43.50.090

AS 43.50.150

AS 43.50.190

15 AAC 50.100. Exemptions for military and Indian reservation sales

(a) Cigarettes imported or acquired by a military exchange, commissary, or ship store are exempt from tax under this chapter if the cigarettes are sold to and for the sole use of authorized personnel according to current military regulations. Cigarettes imported or acquired by a military exchange, commissary, or ship store and sold to or for the use of unauthorized personnel are not exempt from the tax under this chapter. Cigarettes imported or acquired by independent contractors and sold to consumers within military installations are not exempt from tax under this chapter.

(b) A person claiming an exemption under (a) of this section for the sale of cigarettes directly to a military exchange, commissary, or ship store shall file, with a return under 15 AAC 50.120, an exemption certificate for each exempt sale claimed under this section. The certificate must be in the form of an affidavit, signed by an authorized agent of the military exchange, commissary, or ship store, and contain a statement that the cigarettes purchased will be sold solely to and for the use of authorized personnel in accordance with military regulations. Accompanying the exemption certificate must be the invoice supporting the sale to the military exchange, commissary, or ship store.

(c) If the department determines that cigarettes sold under exemption of this section were sold to or for the use of unauthorized personnel, the department will assess the tax under this chapter to the person or entity making the sale.

(d) Cigarettes imported or acquired by an Indian operating a cigarette business within an Indian reservation are exempt from tax under this chapter if the cigarettes are sold to and for the sole use of Indians. Cigarettes imported or acquired by an Indian operating a cigarette business within an Indian reservation are not exempt from the tax under this chapter if sold to a non-Indian, and the tax from those nonexempt sales must be collected, reported, and remitted as required in (f) of this section.

(e) A person claiming an exemption under (d) of this section for the sale of cigarettes directly to an Indian operating a cigarette business within an Indian reservation shall file with a return under 15 AAC 50.120, an exemption certificate for each exempt sale claimed under this section. The certificate must be in the form of an affidavit signed by the Indian operating the cigarette business within the Indian reservation, and it must contain a statement that tax-free cigarettes will be sold solely to and for the use of Indians. Accompanying the exemption certificate must be the invoice supporting the sale to the Indian operating the cigarette business within the Indian reservation.

(f) An Indian operating a cigarette business on an Indian reservation and making sales to non-Indians shall collect the tax due on sale of cigarettes from the non-Indian and remit the tax with a withholding report to the department. The withholding report must be on a form prepared by the department and must state the number of cigarettes sold to non-Indians and the amount of tax due on the sales to the non-Indians. The tax collected and the withholding report must be filed with the department no later than the end of the month following the month in which the cigarettes were sold.

(g) If the department determines that cigarettes sold under exemption of this section were sold to or for the use of non-Indians without collection, remitting, and reporting the tax due, the department will assess the tax under this chapter to the person or entity making the sale.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.090

AS 43.50.150

15 AAC 50.110. Tax credits and refunds

(a) A person paying tax on cigarettes which are destroyed, or which are returned unsalable to the manufacturer, before sale, may claim a credit on a return of the tax paid on the destroyed or unsalable cigarettes.

(b) If a claim for credit is made for destroyed cigarettes, the claim for credit must be supported by a form issued by the U.S. Department of Treasury substantiating the destruction. If a claim for credit is made for cigarettes returned unsalable, the claim for credit must be supported by a credit invoice issued by the manufacturer.

(c) If a person is entitled to a credit under this section after having filed a final return under 15 AAC 50.120(e), the person may claim a refund of the tax. A claim for refund must be filed on a form provided by the department and must include the number and circumstances of the cigarettes destroyed or returned unsalable. A claim for refund must also be supported by the forms and invoices required by (b) of this section.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.090

AS 43.50.150

15 AAC 50.120. Returns

(a) A person who during the preceding month first manufactures, imports, or acquires cigarettes in this state or who during the preceding month acquired cigarettes in this state upon which the tax has not been paid shall file a return at the end of the month, as required by this section, and pay the tax as required by 15 AAC 50.090.

(b) The return must be signed under penalty of perjury by the person filing the return. The return must be on a form provided by the department and must include

- (1) the name and address of the person filing the return;
- (2) the name under which the cigarette business is being conducted;
- (3) the number of cigarettes manufactured, imported, or acquired in the state during the preceding month;
- (4) the names of persons from whom the cigarettes were imported or acquired during the preceding month;
- (5) the number of cigarettes imported or acquired from each person named in (b)(4) of this section;
- (6) the amount of tax due on the cigarettes manufactured, imported, or acquired in the state during the preceding month;
- (7) the amount of cigarettes for which exemption is claimed;
- (8) the amount of the one-percent commission deduction allowed under AS 43.50.090 ;
- (9) the amount of tax credit claimed under 15 AAC 50.110; and
- (10) other information required on the department's form.

(c) Purchase invoices must be attached to the return supporting the purchase of cigarettes during the previous calendar month. Exemption certificates and supporting invoices required by 15 AAC 50.100 must be attached to the return. Credit forms and invoices required by 15 AAC 50.110 must also be attached to the return.

(d) A separate return must be filed for each cigarette business category for which a separate license is required under 15 AAC 50.010. A single return may be filed for a cigarette business conducted in several locations but within one cigarette business category.

(e) After the cessation of a cigarette business, a person shall file a final return in the manner required by this section with the department covering the period from the date of the last return to the date of cessation of business.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.080

AS 43.50.150

15 AAC 50.130. - 15 AAC 50.140

Reserved.

Article 3 General Provisions

Section

150. Manufacturer's report.

160. Invoices.

170. Appeal.

180. Penalties and interest.

190. Definitions.

15 AAC 50.150. Manufacturer's report

No later than the end of each calendar month, a manufacturer shall submit a report to the department stating

(1) the number of cigarettes which were imported into the state from the manufacturer during the preceding month;

(2) the names and addresses of those persons importing cigarettes into the state from the manufacturer during the preceding month; and

(3) the number of cigarettes imported from the manufacturer into the state by each person named in (2) of this section.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.130

AS 43.50.150

15 AAC 50.160. Invoices

An invoice for the sale of cigarettes must contain a statement in bold letters stating whether the tax under this chapter has been paid on the cigarettes sold.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.130

AS 43.50.150

15 AAC 50.170. Appeal

Except in the case of a suspension or revocation of a license under 15 AAC 50.070, a person aggrieved by an action of the department may file an appeal under AS 43.05.240 .

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.05.240

AS 43.50.150

15 AAC 50.180. Penalties and interest

(a) In addition to the penalties imposed under AS 43.05.220 , a 100-percent penalty will be imposed against

(1) a person who continues to operate a cigarette business or allows another unlicensed person to operate that cigarette business during the period that the license for the cigarette business is suspended or revoked; or

(2) a person who operates a cigarette business without first obtaining a license under 15 AAC 50.010.

(b) The provisions of AS 43.05.225 relating to the interest on delinquent taxes apply to the tax imposed under this chapter.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.05.220 (a)

AS 43.05.225

AS 43.50.100 (d)

AS 43.50.150

15 AAC 50.190. Definitions

In addition to the definitions contained in AS 43.50.170 , in this chapter

(1) "cigarette business" means a category of activity in the state as a manufacturer, distributor, direct-buying retailer, vending machine operator, retailer, or buyer of cigarettes;

(2) "department" means the Department of Revenue;

(3) "import or acquire" includes all manners, ways, and modes of bringing or obtaining cigarettes in the state and, in the case of a manufacturer, includes bringing cigarettes into the state for samples or storage;

(4) "Indian" means a person registered on the tribal rolls of the Indian tribe occupying an Indian reservation;

(5) "Indian reservation" means all land set aside by the United States for the exclusive use and occupancy of Indian tribes, which are recognized as Indian reservations under federal law and, as of February 27, 1983, includes only the Annette Islands Reserve set aside by the United States for the exclusive use and occupancy of Metlakatla Indian Community; and

(6) "license year" means the 12 months commencing July 1 of one calendar year and ending June 30 of the following calendar year.

History: Eff. 2/27/83, Register 85

Authority: AS 43.05.080

AS 43.50.150

AS 43.50.170